

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

FILED

01 MAY 11 PM 4:20

BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN THE MATTER OF:)
)
)
 Brenda Coker)
)
 Debtor.)
 _____)

Case No. 00-11081-W
Chapter 7
Asset Case

**NOTICE OF OPPORTUNITY FOR HEARING AND
(1) APPLICATION FOR SETTLEMENT AND COMPROMISE AND
(2) APPLICATION FOR SALE OF PROPERTY**

TO: ALL CREDITORS AND PARTIES IN INTEREST:

YOU ARE HEREBY NOTIFIED on May 11 2001, Ralph C. McCullough, II, as Trustee in the above-referenced bankruptcy filed this Application for Settlement and Compromise in which he proposes resolve the dispute between the parties regarding the asserted avoidance action through the sale of the real estate. The Trustee proposes to sell the property herein described according to the terms and conditions stated below. A copy of the proposed Order Authorizing Settlement and Sale of Assets accompanies this Notice and Application.

TAKE FURTHER NOTICE that any response, return and/or objection to the Applications should be filed with the Clerk of the Bankruptcy Court and served on all parties in interest within twenty (20) days from the date of this notice.

TAKE FURTHER NOTICE that no hearing will be held on these Applications unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on **June 19, 2001 at 9:30 a.m.** the United States Bankruptcy Court, District of South Carolina, 1100 Laurel Street, Columbia, South Carolina. No further notice of this hearing will be given.

(1) APPLICATION FOR SETTLEMENT AND COMPROMISE

NATURE OF DISPUTE: On or about August 17, 2000, the Debtor transferred to her siblings, Janet M. O'Neal, Kenneth L. Barfield, and Kendall Barfield (the "Transferees"), for no consideration, her one-fourth (1/4) interest in real estate described as 51+/- acres located in Florence County, South Carolina, TMS #166-31-138 and TMS #133-31-033 (the "Property"). The Trustee is informed and believes that the Debtor's one-fourth (1/4) interest in the Property is approximately \$10,000.00. The Trustee is informed and believes that there are no liens held against the real estate.

On December 11, 2000, the Trustee requested information from the Debtor regarding the transfer of the Property to her siblings. Based on the information received, the Trustee asserts that the August 17, 2000 transfer to the Debtor's siblings can be avoided under 11 U.S.C. §548 and/or

14/13/12

11 U.S.C. §547 of the United States Bankruptcy Code. On January 8, 2001, the Trustee requested that the Transferees pay the estate the value of the 1/4 interest on or before January 31, 2000. Without payment the Trustee indicated he would bring a Complaint to avoid the transfer pursuant to 11 U.S.C. §§547 and 548. The Trustee received no response to his written demand. Therefore, the Trustee appointed a real estate agent to inspect, value and begin marketing efforts on the Property. During this time, the Trustee requested that his appointed Counsel bring an adversary action to avoid the transfer as well as to sell co-owned property under 11 U.S.C. §363(h). However, prior to these matters being filed, an offer was received from the transferees to resolve the issues for \$5,000.00.

AMOUNT DISPUTED: \$10,000.00

PROPOSED SETTLEMENT OR COMPROMISE: The Trustee proposes to settle his claim for the avoidance of the August 2000 transfer by receiving \$5,000.00 from the Transferees for the Debtor's one-fourth (1/4) interest in the real estate. In exchange for these funds the Trustee will not be required to file an adversary complaint under 11 U.S.C. §§547, 548 and 363(h), or incur any additional litigation costs to set the transfer aside. The settlement and transfer of the property to the Transferees will be subject to all existing liens and encumbrances against the real estate. The Trustee will not prepare a deed. The \$5,000.00 will be for the settlement for the disputed issues. To date, the legal expenses associated with this matter are approximately \$300.00. The Trustee is believes the legal expenses would be significantly more if this matter is not settled since an adversary would have to be filed to set the transfer aside and to seek authorization to sell co-owned property.

BENEFIT TO THE ESTATE: Settlement of this matter is in the best interest of the creditors of the estate. In reaching this settlement, the Trustee has considered the value of the estate's one-fourth interest in the Property, the costs of bringing an avoidance action, the probability of success in such litigation, the collectability of a resulting judgment, the complexity, expense, inconvenience, and delay attendant to litigation, and the interests of the creditors of the estate.

MOVING PARTIES:

JANET B. HAIGLER,
Attorney for the Trustee
District ID No.: 5708
P.O. Box 1799
Columbia, S.C. 29202
(803) 765-2935

2. APPLICATION FOR SALE OF PROPERTY

TYPE OF SALE: Private Sale with reserve

PROPERTY TO BE SOLD: Estate's one-fourth interest in real estate described as 51 +/- acres located in Florence County, South Carolina, TMS #166-31-138 and TMS #166-31-033.

PROPERTY IS SOLD "AS IS, WHERE IS"

PRICE: \$5,000.00

APPRAISAL VALUE OF ESTATE'S ONE-HALF INTEREST: Per real estate agent, the debtor's one-fourth interest is approximately \$10,000.00.

BUYERS: Janet M. O'Neal, Kenneth L. Barfield, and Kendall Barfield

BUYERS ARE THE SIBLINGS OF THE DEBTOR

PLACE AND TIME OF SALE: Closing will be held on May 29, 2001, unless otherwise agreed to by the parties.

SALES AGENT/AUCTIONEER/BROKER: Cobb & Sabbagha, 1126 Pine Croft Drive, West Columbia, S.C. 29170. Agent: Jack Cobb (803) 794-5152

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER, ETC.: \$500.00
(Commission is based on six (10 %) percent of the gross proceeds of sale)

ESTIMATED TRUSTEE'S COMPENSATION ON SALE: Approximately \$1,250.00, however Trustee's compensation will not exceed the limits set forth in 11 U.S.C. §326(a).

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY: The Trustee is informed and believes that there are no liens held against the real estate. The property is being sold subject to all liens and encumbrances of record. The Trustee will not conduct a title search, prepare a Deed or closing statement.

EXPENSES OF SALE: None

DEBTOR'S EXEMPTION: None

PROCEEDS ESTIMATED TO BE RETAINED BY ESTATE: \$4,500.00

Applicant is informed and believes that it would be in the best interest of the estate to sell said property by Private Sale. Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this Application.

Any party objecting to the trustee's settlement or sale must do so in writing, and in accordance with SC LBR 9014-1. All objections should be filed with the Clerk of Court, United States Bankruptcy Court, 1100 Laurel Street, Post Office Box 1448, Columbia, South Carolina 29202, with a copy served on the trustee or debtor in possession, as applicable, at the address shown below. A copy of the objection should also be served on the United States Trustee, AT&T Building, 1201 Main Street, Suite 2440, Columbia, South Carolina 29201. **All objections must be filed and served within twenty (20) days from the date of this notice in accordance with the terms recited herein.** If an objection is filed and served, a hearing will be held on the objection at the date and time noted on the Notice of Application and Opportunity for Hearing.

The Court may consider additional offers at the hearing held on an objection to the sale. The Court may order at this hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek sanctions or other similar relief against any party filing a spurious objection to this notice.

WHEREFORE, Applicant requests the Court to issue an Order Authorizing Settlement and Compromise and Authorizing Sale of Assets, and such other and further relief as may be proper.



JANET B. HAIGLER

Attorney for the Trustee

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(803) 765-2935

District Court I.D. No.: 5708

Columbia, South Carolina

5-11, 2001.

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